UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,313	02/06/2002	Robert L. Miller II	01-2122.02	8860

24504   7590   05/18/2007
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ART UNIT	PAPER NUMBER
2144	

MAIL DATE	DELIVERY MODE
05/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/068,313	MILLER ET AL.
	Examiner	**Art Unit**	
	Joseph R. Maniwang	2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>05 February 2007</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-10,17-27,29-32 and 34-54</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-10,17-27,29-32 and 34-54</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

02/05/07 has been entered.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

3.   Claims 1-10, 17-27, 29-32, and 34-54 are rejected under 35 U.S.C. 112, second

paragraph, as being indefinite for failing to particularly point out and distinctly claim the

subject matter which applicant regards as the invention.

4.   Independent claims 1, 17 and 46 recite a limitation "which of the network

elements are of interest". The term "of interest" is a relative term which renders the

claim indefinite. The term "of interest" is not defined by the claim, the specification does

not provide a standard for ascertaining the requisite degree, and one of ordinary skill in

the art would not be reasonably apprised of the scope of the invention. For example, it

cannot be readily understood from the claim language what constitutes a network

element to be "of interest", and such a quality is subjective and does not necessarily

have a basis in any computing mechanism of the claimed invention.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6.   Claims 1-5, 17-21, 27, 29-32, 34-36, 39 and 43-45 are rejected under 35 U.S.C.

102(e) as being anticipated by US Patent Application No. 2003/0005099 by Sven et al.

7.   In claim 1, Sven teaches about a communication system, comprising (Fig 1): a

plurality of clients "Clients 210" (Paragraph 33, lines 1-10); a plurality of network

elements (devices 205, properties) (Paragraph 33, lines 1-10) (Paragraph 52, lines 1-

18); and an element management system (EMS) "Event Manager" interfaced with the

clients and the network elements, the EMS configured to track which of the network

elements are of interest to the clients, the EMS further configured to automatically poll

the network elements based on which of the network elements are determined, by the

EMS, to be of interest to the clients, the EMS further configured to provide the clients

with information indicative of the polled elements (Paragraph 18, lines 1-16) (Paragraph

38, lines 1-15) (Paragraph 52, lines 1-18). The act of querying for properties of different

devices by the event manager in its self is polling.

8.   In claim 2, Sven teaches about a communication system of claim 1, wherein the

EMS is configured to detect a change in a state of one of the polled elements and to

provide one of the clients with information indicative of the state in response to the

detected change (Paragraph 18, lines 1-16)(Paragraph 38, lines 1-15)(Paragraph 52,

lines 1-18).

9.   In claim 3, Sven teaches about a communication system of claim 1, wherein the

EMS is configured to detect a change in a state of one of the polled elements, and

wherein the EMS is further configured to identify which of the clients are interested in

the one polled element and to provide each of the identified clients with information

indicative of the state in response to the detected change (Paragraph 18, lines 1-16)

(Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18).

10.   In claim 4, Sven teaches about a system of claim 1, wherein the EMS is

configured to identify which of the clients are interested in one of the network elements

and to provide each of the identified clients with information indicative of a state of the

one network element (Paragraph 52, lines 1-18).

11.   In claim 5, Sven teaches about a system of claim 4, wherein the EMS is

configured to transmit the information indicative of the state of the one network to each

of the identified clients in response to a determination, by the EMS, that the state has

changed (Paragraph 52, lines 1-18).

12.   In claim 17, Sven teaches about a method for managing elements of a

communication network, comprising the steps of (Fig 3): tracking which of the network

elements are of interest to a plurality of clients (Paragraph 52, lines 1-18); automatically

polling the network elements based on the tracking step (Paragraph 18, lines 1-16)

(Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18); and providing the clients with

information indicative of the polled elements (Paragraph 18, lines 1-16) (Paragraph 38,

lines 1-15) (Paragraph 52, lines 1-18). The act of querying for properties of different

devices by the event manager in its self is polling.

13.   In claim 18, Sven teaches about a method of claim 17, further comprising the

steps of: detecting a change in a state of one of the polled elements based on the

polling step, wherein the providing step includes the step of providing one of the clients

with information indicative of the state in response to the detecting step (Paragraph 18,

lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18).

14.   In claim 19, Sven teaches about a method of claim 17, further comprising the

steps of: detecting a change in a state of one of the polled elements (Paragraph 52,

lines 1-18); and identifying which of the clients are interested in the one polled element

based on the tracking step, wherein the providing step includes the step of providing

each of the identified clients with information indicative of the state in response to the

detecting step (Paragraph 18, lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 44,

lines 1-12) (Paragraph 58, lines 10-25).

15.   In claim 20, Sven teaches about a method of claim 17, further comprising the

step of: identifying which of the clients are interested in one of the network elements

based on the tracking step, wherein the providing step includes the step of transmitting, to each of the identified clients, information indicative of a state of the one network element based on the identifying step (Paragraph 18, lines 1-16) (Paragraph 38, lines 1 - 15) (Paragraph 52, lines 1-18).

16.   In claim 21, Sven teaches about a method of claim 20, further comprising the step of: detecting a change in a state of the one polled element, wherein the transmitting step is performed in response to the detecting step (Paragraph 18, lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18).

17.   In claim 27, Sven teaches about a communication system of claim 1, wherein the EMS is configured to begin polling at least one of the network elements in response to a determination by the EMS that at least one of the clients is currently interested in the at least one network element (Paragraph 18, lines 1 - 16) (Paragraph 38, lines 1 - 15) (Paragraph 52, lines 1-18).

18.   In claim 29, Sven teaches about a communication system of claim 28, wherein the EMS is configured to poll at least one of the network elements in response to a determination that at least one of the clients is interested in the at least one network element (Paragraph 18, lines 10-17) (Paragraph 52, lines 1-18).

19.   In claim 30, Sven teaches about a communication system of claim 1, wherein the EMS is configured to receive, from one of the clients, a command for changing a configuration of one of the network elements identified by the command; and wherein the EMS is configured to change the configuration of the one network element in response to the command (Paragraph 44, lines 1-19).

20.   In claim 31, Sven teaches about a communication system of claim 30, wherein the EMS is configured to transmit, in response to the command, a notification of the change in the configuration of the one network element to each of the clients determined by the EMS to be interested in the one network element (Paragraph 52, lines 1-18).

21..   In claim 32, Sven teaches about a method of claim 17, wherein the polling step comprises the step of: initiating polling of at least one of the network elements in response to a. determination that at least one of the clients is currently interested in the at least one network element (Paragraph 18, lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18).

22.   In claim 34, Sven teaches about a communication system of claim 29, wherein the EMS is configured to ping the at least one client to determine whether the at least one client is still interested in the at least one network element (Paragraph 33, lines 1-11). This is equivalent to and end of TCP/IP session.

23.   In claim 35, Sven teaches about a communication system of claim 34, wherein the EMS is configured to stop polling the at least one network element in response to a determination that the at least one client is no longer interested in the at least one network element (Paragraph 33, lines 1-11). This is equivalent to and end of TCP/IP session.

24.   In claim 36, Sven teaches about a communication system of claim 29, wherein the EMS is configured to stop polling the at least one network element in response to a

determination that the at least one client is no longer interested in the at least one

network element (Paragraph 38, lines 1-15).

25.   In claim 39, Sven teaches about a communication system of claim 1, wherein the

EMS is configured to maintain data indicative of which of the network elements are

currently of interest to the clients, and wherein the EMS is configured to select, based

on the data, which of the network elements are to be automatically polled (Paragraph

18, lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18).

26.   In claim 43, Sven teaches about a communication system of claim 1, wherein the

EMS is configured to maintain data indicative of which of the network elements are

currently of interest to the clients, and wherein the EMS is configured to periodically poll

at least one of the network elements, based on the data, if the data indicates that the at

least one network element is of interest to at least one of the clients (Paragraph 18,

lines 1-16) (Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18).

27.   In claim 44, Sven teaches about a communication system of claim 43, wherein

the at least one network element comprises a communication device having a data rate,

and wherein the EMS is configured to periodically discover the data rate by periodically

polling the at least one network element. (Paragraph 18, lines 1-16) Paragraph 38, lines

1-15) (Paragraph 52, lines 1- 18)

28.   In claim 45, Sven teaches about a communication system of claim 1, wherein the

EMS is configured to automatically and repetitively poll at least one of the network

elements as long as at least one of the clients remains interested in the at least one

network element, and wherein the EMS is configured to stop automatic polling of the at

least one network element in response to a determination that none of the clients are

currently interested in the at least one network element (Paragraph 18, lines 1-16)

(Paragraph 38, lines 1-15) (Paragraph 52, lines 1-18).

29.   Claims 46-54 are rejected under 35 U.S.C. 102(e) as being anticipated by Foley

et al. (U.S. Pat. No. 6,487,590), hereinafter referred to as Foley.

30.   Regarding claim 46, Foley disclosed a method and system comprising clients

(see column 2, line 39); network elements, the network elements comprising a first

plurality and a second plurality (see column 3, lines 28-31; column 5, lines 6-9); and an

EMS interfaced with the clients and the network elements (see column 2, line 65

through column 3, line 4), the EMS configured to define an instance of client profile data

indicating which of the network elements are currently of interest to at least one of the

clients, the instance of the client profile data indicating that each of the first plurality of

the network elements are currently of interest to at least one of the clients (see column

1, lines 49-52; column 2, lines 60-64; column 4, lines 22-29), wherein the EMS, after

defining the instance of the client profile data, is configured to automatically and

repetitively poll, based on the client profile data, each of the first plurality of the network

elements regardless of whether the EMS receives a message from any of the clients

indicating an interest in any of the first plurality of the network elements (see column 1,

lines 49-52; column 2, lines 60-64; column 4, lines 22-29).

31.   Regarding claim 47, Foley disclosed the method and system wherein the EMS,

based on the client profile data, automatically polls each of the first plurality of the

network elements without polling any of the second plurality of the network elements, and wherein the instance of the client profile data does not indicate that any of the second plurality of the network elements is of interest to any of the clients (see column 1, lines 39-43).

32.   Regarding claim 48, Foley disclosed the method and system wherein the EMS, based on the client profile data, is configured to refrain from polling any of the second plurality of the network elements until the client profile data is updated to indicate that at least one of the clients is interested in at least one of the second plurality of the network elements (see column 1, lines 39-43).

33.   Regarding claim 49, Foley disclosed the method and system wherein the plurality of clients comprise at least a first client and a second client, the client profile data indicating that one of the first plurality of the network elements is of interest to the first client, wherein the EMS is configured to update, in response to a determination that the first client did not respond to a ping from the EMS, the client profile data to indicate that the one network element is not of interest to the first client (see column 4, lines 49-52).

34.   Regarding claim 50, Foley disclosed the method and system wherein the plurality of clients comprise at least a first client and a second client, wherein the first client is configured to transmit a message to the EMS in response to a closing of a GUI by a user, and wherein the EMS is configured to update, in response to the message, the client profile data to indicate that at least one of the first plurality of the network elements is not of interest to the first client (see column 4, lines 58-64; column 5, lines 54-58).

35.   Regarding claim 51, Foley disclosed the method and system wherein the GUI is

defined by GUI code transmitted to the first client from the EMS (see column 3, lines 16-

22; column 4, lines 46-49).

36.   Regarding claim 52, Foley disclosed the method and system wherein the EMS is

further configured to store status data indicative of a respective state for each of the first

plurality of the network elements, wherein the EMS in polling one of the first plurality of

the network elements is configured to receive polled data indicative of a state of the one

network element, wherein the EMS is configured to detect a change in the state of the

one network element by comparing the polled data to the status data, and wherein the

EMS is configured to transmit, based on the client profile data and in response to a

detection of the change, a notification of the change to each of the clients interested in

the one network element (see column 1, lines 49-52; column 2, lines 60-64; column 4,

lines 22-29).

37.   Regarding claim 53, Foley disclosed the method and system wherein the plurality

of clients comprise at least a first client and a second client, wherein the first client is

configured to transmit, to the EMS, a request to receive a status update for the one

network element, and wherein the EMS, in response to the request, is configured to

transmit a message, based on the status data, indicative of a current state of the one

network element without polling the one network element between reception of the

request and transmission of the message (see column 5, lines 41-63).

38.   Regarding claim 54, Foley disclosed the method and system wherein the EMS is

configured to update the status data in response to the detection of the change thereby

defining a new instance of the client profile data (see column 1, lines 49-52; column 2,

lines 60-64; column 4, lines 22-29).

Claim Rejections - 35 USC § 103

39.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

40.   Claims 6-10, 22-26, 37-38 and 40-42 are rejected under 35 U.S.C. 103(a) as

being unpatentable over US Patent Application No. 2003/0005099 by Sven et al as

applied to claims 1, 11 and 17 respectively above, and further in view of US Patent No.

6,895,431 by Bero.

41.   In claim 6, Sven teaches all the limitation wherein the EMS is configured to store

code "control object" defining an associated with one of the network elements "devices

properties", the EMS "Event Manager" configured to retrieve the code in response to a

request received from one of the clients and to transmit the retrieved code to the one

client, wherein the request identifies the one network element (Paragraph 34, lines 1-6)

(Paragraph 38, lines 1-15) (Paragraph 40, lines 1-8) (Paragraph 49, lines 1-11) but does

not explicitly teach about a system of claim 1, wherein a graphical user interface (GUI)

is used.

42.   Sven teaches about the need for an efficient way to present device setting

information to a user interface (Paragraph 9, lines 1-10) Bero (from applicant IDS)

teaches of the need and benefit of using a GUI in a dynamic configuration operation in which users are allowed to view and change configuration information (Col 7, lines 5-15) (Col 7, lines 50-60) (Col 8, lines 20-35). GUI is known in the art to be user friendly as the complication of the underlying operating code is represented by a user-friendly graphical interface, which allows dynamic operation to be conducted efficiently.

43.   It would have been obvious for some one of ordinary skill to improve on the invention of Sven by using the GUI approach of Bero in order to support the dynamic nature of the configuration and monitoring processes while providing a user friendly interface. Sven recognized a need for a UI allowing users to have specific control over a dynamic system (see paragraph [0009]). Bero disclosed the use of a GUI as beneficial in such systems as they allowed control over dynamic information updating (see column 8, lines 18-36). One of ordinary skill in the art then would have been motivated to combine Bero with Sven to provide a controllable information system allowing dynamic changes through user interaction.

44.   In claim 7, Sven combined with Bero, teaches about a system of claim 6, wherein the EMS is configured to enable a user to update the stored GUI code, and wherein the EMS is further configured to detect an update to the stored GUI code and to transmit the updated GUI code to the one client in response to a detection of the update (Covered in claim 6) (Sven Paragraph 48, lines 1-12).

45.   In claim 8, Sven teaches about a system of claim 6, wherein the EMS is configured to maintain data indicative of which of the clients are interested in which of

the networks, the EMS configured to update the data in response to the request

(Covered in claim 6) (Sven Paragraph 48, lines 1-12) (Sven Paragraph 52, lines 1-18).

46.   In claim 9, Sven combined with Bero, teaches about a system of claim 8, wherein

the one client is configured to display a GUI based on the GUI code transmitted to the

one client, the one client further configured to close the GUI in response to a user input

and to transmit a message to the EMS upon closing the GUI, wherein the EMS is

configured to update the data in response to the message (Covered in claim 6) (Sven

Paragraph 33, lines 1-9). A GUI running on top of TCP/IP (connection oriented) requires

the establishment of a session when in operation. By closing the GUI, the session is

terminated according to the protocol of TCP/IP, which is communicated to the

destination (EMS) while in the process of closing the session.

47.   In claim 10, Sven combined with Bero, teaches about a system of claim 9,

wherein the one client is configured to discard the GUI code transmitted to the one

client upon closing the GUI (Covered in claim 6) (Sven Paragraph 33, lines 1-9).

Without a TCP/IP session all intended data transfer is discarded.

48.   In claim 22, Sven teaches about a method of claim 17, further comprising the

steps of storing graphical user interface (GUI) code remotely from the clients, the GUI

code defining a GUI associated with one of the network elements (Covered in claim 6)

(Sven Paragraph 40, lines 1-10); retrieving the GUI code in response to a request

received from one of the clients (Sven Paragraph 52, lines 1-18); and transmitting the

retrieved GUI code to the one client, wherein the request identifies the one network

element (Sven Paragraph 52, lines 1-18).

49.   In claim 23, Sven teaches about a method of claim 22, further comprising the

steps of: enabling a user to update the stored GUI code (Covered in claim 6) (Sven

Paragraph 48, lines 1-12); detecting an update to the stored GUI code (Sven Paragraph

52, lines 1-18) ; and transmitting the updated GUI code to the one client in response to

the detecting step (Sven Paragraph 52, lines 1-18)

50.   In claim 24, Sven teaches about a method of claim 22, further comprising the

steps of maintaining data indicative of which of the clients are interested in which of the

network elements (Sven Paragraph 52, lines 1-18); and updating the data in response

to the request (Sven Paragraph 52, lines 1-18).

51.   In claim 25, Sven teaches about a method of claim 24, further comprising the

steps of : displaying a GUI at the one client based on the GUI code transmitted in the

transmitting step (Covered in claim 6) (Sven Paragraph 48, lines 1-12); receiving a user

input (Sven Paragraph 48, lines 1-12); closing the displayed GUI in response to the user

input (Sven Paragraph 33, lines 1-10); and updating the data in response to the closing

step (Sven Paragraph 33, lines 1-10). A GUI running on top of TCP/IP (connection

oriented) requires the establishment of a session when in operation. By closing the GUI,

the session is terminated according to the protocol of TCP/IP, which is communicated to

the destination (EMS) while in the process of closing the session.

52.   In claim 26, Sven teaches about a method of claim 25, further comprising the

step of: discarding, in response to the closing step, the GUI code transmitted to the one

client (Sven Paragraph 33, lines 1-10). Without a TCP/IP session all intended data

transfer is discarded. Claim 37 and 38 are the system claim to the method of claim 22

and 25 respectively which are rejected for the same reason. Claim 40 is the system

claim to the combined method of claim 25 and 26, which are rejected for the same

reason.

53.   Claim 41 is the system claim to the method claim of claim 22 which are rejected

for the same reason. Claim 42 is the system claim to the method claim of claim 24

which are rejected for the same reason.

Response to Arguments

54.   Applicant's arguments filed 02/05/07 have been fully considered but they are not

persuasive.

55.   Regarding claim 1 rejected under 35 U.S.C. 102(e) as being anticipated by Sven,

Applicant asserts that Sven does not teach "the EMS further configured to automatically

poll the network elements based on which of the network elements are determined, by

the EMS, to be of interest to the clients" as claimed. Applicant argues that Sven does

not disclose the manner in which the device may be polled. To this point, Examiner

submits that Sven clearly discloses polling of a device, as an event manager monitored

changes of a device (see paragraphs [0044, [0045], [0052]). Such monitoring was also

automatic (see column [0054]). Examiner submits that the manner in which the device

may be polled is irrelevant, since the claims also do not disclose the manner in which

polling takes place. Applicant further argues that contrary to the claimed invention, the

polling in Sven is not "based on which clients have subscribed to property change

events". More precisely, Applicant states that the polling of Sven is not "based on which

of the devices are determined to be of interest to the clients" or "based on the tracked

interests of the clients". Examiner first submits that tracking the interest of the clients as

argued is not recited in the claims. Instead, the claims recite tracking which of the

network elements are "of interest" to the clients. Sven clearly teaches this broad

concept of "tracking", as the system of Sven allowed clients to subscribe to certain

network devices for monitoring purposes, the system then maintaining such subscription

information in the event manager (see paragraphs [0045], [0052]). Examiner further

submits that polling "based on which of the network elements are determined, by the

EMS, to be of interest to the clients" is broad, as the claims do not specifically define

how such polling is based on the interest of clients. That is, for such polling to be based

on a client's interest in a network element merely requires that the polling is associated

with a client's interest in a network element. In this case, the polling of Sven is clearly

associated with a client's interest in a device as the polling of a device by the event

manager was done for the purpose of informing a client interested in the device, and

thus reads on the claim language as presented.

56.   Regarding claims 6 and 7 rejected under 35 U.S.C. 103, Applicant asserts that

the prior art of record does not teach storing GUI code in the "EMS" as claimed.

However, Sven clearly suggests storing interface code within the event manager (see

paragraph [0040]), which in combination with Bero, suggests storing GUI code in the

event manager as claimed.

57.   Regarding claim 40, Applicant asserts that the prior art references do not teach

updating data used for selecting "which of the network elements are to be automatically

polled". In response to applicant's argument that the references fail to show certain

features of applicant's invention, it is noted that the features upon which applicant relies

(i.e., updating data used for selecting which network elements are to be automatically

polled) are not recited in the rejected claim(s). Although the claims are interpreted in

light of the specification, limitations from the specification are not read into the claims.

See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

58.   Regarding claim 44, Applicant asserts that Sven does not teach "wherein the

EMS is configured to periodically discover the data rate by periodically polling the at

least one network element". However, Sven clearly disclosed monitoring the change of

values in a device by periodically polling the device (see paragraphs [0053], [0054]).

59.   Regarding new claims 46-54, Applicant's arguments do not clearly point out the

patentable novelty which he or she thinks the claims present in view of the state of the

art disclosed by the references cited or the objections made. Further, they do not show

how the amendments avoid such references or objections. Examiner submits that the

claims are clearly taught by the prior art. The claims have been rejected under 35

U.S.C 102(e) as detailed above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to

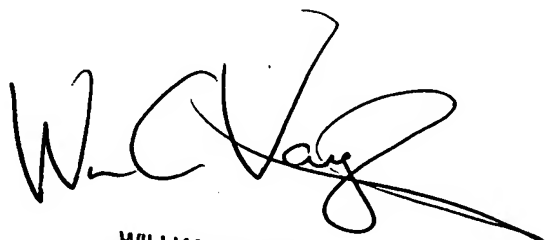applicant's disclosure.

Barker et al. (U.S. Pat. No. 6,363,421)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph R. Maniwang whose telephone number is (571) 272-3928. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William C. Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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